

ONE HUNDRED EIGHTEENTH CONGRESS

Congress of the United States

House of Representatives

COMMITTEE ON THE JUDICIARY

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May 8, 2023

Mr. Daniel F. Donovan
King & Spalding LLP
1700 Pennsylvania Avenue, NW
Washington, DC 20006-4707

Re: Alphabet

Dear Mr. Donovan:

The Committee on the Judiciary is conducting oversight of how and to what extent the Executive Branch has coerced or colluded with companies and other intermediaries to censor lawful speech. As a part of this oversight, on February 15, 2023, after efforts to obtain the voluntary compliance of your client, Alphabet, the Committee issued a subpoena for relevant documents (the Subpoena), with a return date of March 23, 2023. Alphabet's compliance with the subpoena to date is insufficient. We write to note our concern with Alphabet's compliance.

Alphabet has produced just 4,049 pages of material in response to the Committee's subpoena. Moreover, despite explicit instructions enclosed with the subpoena to produce unredacted documents, Alphabet has frustrated the Committee's review of the responsive material by unilaterally redacting key information necessary to understand the context and content of the material. These redactions do not appear to be based on any applicable privilege—because Alphabet has asserted none—and the Committee requires this material to be produced without redactions. Furthermore, Alphabet has recently been placing documents in a reading room, in a form and manner that prevents and frustrates the Committee's understanding and use of those documents and fails to comply with the terms of the subpoena without the Committee's consent. We expect that you will produce all responsive material without redactions, both for documents already produced and for documents to be produced going forward, and that you will produce these documents directly to the Committee consistent with the subpoena.

In addition, Alphabet's rolling productions to date have not included material the Committee has reason to believe may be in the company's possession and that is responsive to the subpoena. The following examples reference types of documents that Alphabet may possess, and which are a priority for the Committee to receive in Alphabet's next rolling production. This

list, however, should not be construed as an exhaustive or comprehensive set of potentially outstanding documents. For example:

- Alphabet should possess responsive communications with other social media platforms related to content moderation. To date, Alphabet has not produced an appreciable volume of such communications exclusively with other social media platforms.
- Alphabet should possess responsive documents in the custody of its subsidiaries. To date, Alphabet has not produced an appreciable volume of such documents in the custody of Mandiant, Jigsaw, and other subsidiaries.
- Alphabet should possess responsive communications with the Global Disinformation Index and other third-party entities. To date, Alphabet has not produced an appreciable volume of such communications with third-party entities.
- Alphabet should possess communications conducted through channels other than e-mail. Such material would include but is not limited to communications taking place on Slack, Microsoft Teams, Jira, Signal, WhatsApp, Messenger, Telegram, text message, direct message on any and all social media platforms, and physical memoranda or other correspondence. To date, Alphabet has not produced an appreciable volume of such non-e-mail communications.
- Alphabet should possess internal communications among Alphabet employees “referring or relating to any documents or communications from the Executive Branch of the United States Government, whether public or non-public, referring or relating to the moderation, deletion, suppression, restriction, or reduced circulation of content.” Such material would include but is not limited to internal meeting notes or discussions of government requests, referrals, or recommendations related to content moderation. To date, Alphabet has not produced an appreciable volume of such internal communications.

Although the foregoing examples reflect the types of documents that Alphabet should prioritize for inclusion in its next rolling production to the Committee, it is necessary that Alphabet promptly complete its production in full so that the Committee may proceed with its investigation into these matters. In this regard, we note that Alphabet’s rolling productions already have extended for more than a month past the subpoena’s March 23, 2023, return date. Accordingly, the Committee expects that Alphabet will complete its production of responsive documents, in full and without redaction, by no later than Monday, May 22, 2023, at 5:00 p.m.

The release of the Twitter Files has shown just how extensively the Executive Branch communicated and coordinated with technology companies regarding content moderation. We are skeptical that Alphabet’s interactions with the federal government where pressure was applied were any less concerning than those of Twitter.

Accordingly, for all these reasons, we expect Alphabet’s full compliance with the terms of the Committee’s subpoena. If Alphabet fails to comply in full with the subpoena’s demands,

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the Committee may be forced to consider the use of one or more enforcement mechanisms.
Thank you for your client's attention to this matter.

Sincerely,

A handwritten signature in blue ink that reads "Jim Jordan". The signature is written in a cursive style with a large, stylized "J" and "D".

Jim Jordan
Chairman

cc: The Honorable Jerrold L. Nadler, Ranking Member
Mr. Sundar Pichai, Chief Executive Officer, Alphabet